

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

Public Services - Commercial Taxes Department - Allegation of corruption against Sri K. Chinni Krishnaiah, Assistant Commercial Tax Officer (Retired), Kalyanadurgam, Anantapur - Charge sheeted in court of law - Acquitted by the ACB Court, Hyderabad - Suspension period regularized as not on duty - Orders of A.P. Administrative Tribunal, dt:20.4.2012 in O.A.No.12511/2009 to regularize the suspension period as on duty with all consequential benefits - W.P. filed by the Government against the orders of the Andhra Pradesh Administrative Tribunal - Orders of the A.P. High Court in W.P.No.24306/2012 - Notice issued - Requested to regularize the suspension period as "On duty" - Regularization of suspension period - Orders - Issued.

REVENUE (VIGILANCE-I) DEPARTMENT

G.O. (Rt.).No. 1693

Dated.03.12.2012

Read the following:-

1. Representation of Sri K.Chinna Krishnaiah, Assistant Commercial Tax Officer (Retired), dt.Nil.
2. Govt. Memo No.572/Vig.I(2)/2000-14, Dt.22.8.2009
3. Orders of the Andhra Pradesh Administrative Tribunal, dt: 20.4.2012 in O.A.No.12511/2009 filed by Sri K. Chinni Krishnaiah, Assistant Commercial Tax Officer (Retired).
4. Orders of the A.P. High Court in W.P.No.24306/2012 filed by the Government, Dt.21.9.2012.
5. Govt. Memo.No.55715/Vig.I(2)/2009-6,Dated:30.10.2012.
6. Representation of Sri K.Chinna Krishnaiah, Assistant Commercial Tax Officer (Retired), dt.16.11.2012

ORDER:

In the reference 1st read above, Sri K.Chinni Krishnaiah, Assistant Commercial Tax Officer (Retired) submitted a representation to the Government requesting to regularize his suspension period from 1.2.2000 to 30.9.2003 as duty for all purposes under FR 54 (B), as he was acquitted by the Trial Court and Government have also dropped charges against him.

2. Earlier Government had examined the request of Sri K.Chinni Krishnaiah, Assistant Commercial Tax Officer (Retd) and rejected his request for regularization of suspension period as on duty on the ground that although he was acquitted by the Court the acquittal was based on the fact that the complainant turned hostile and hence it cannot be considered as an acquittal on merits. Accordingly orders were issued in the reference 2nd read above.

3. In the reference 3rd read above the A.P. Administrative Tribunal, while allowing the OA filed by Sri K. Chinni Krishnaiah, has set-aside the orders issued in the reference 2nd read above and directed the respondents to regularize the suspension period from 1.2.2000 to 30.9.2003 as 'on duty' with all consequential benefits.

4. The order of the Hon'ble A.P. Administrative Tribunal, Hyderabad was challenged by the Government in the High Court of Andhra Pradesh by filing W.P.No.24306/2012.

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5. The Hon'ble High Court of A.P., while allowing the W.P. filed by the Government, has set-aside the orders of the Tribunal as well as the order of the Government issued in the reference 2nd read above and remitted the matter to the Government for fresh disposal in accordance with rule position existing and applicable to the respondent for considering his request for regularization of his suspension period and payment of benefits after giving an opportunity of hearing to him regarding the proposed action.

6. Accordingly, Government have issued a Notice to Sri K. Chinni Krishnaiah, Assistant Commercial Tax Officer (Retired) with a request to appear before the Principal Secretary to Government (CT & Excise), Revenue Department, A.P. Secretariat, Hyderabad for personal hearing and to state/submit as to why his suspension period should not be regularized as 'not-on-duty' failing which it will be construed that he has no explanation to offer and further action will be taken based on the material available with the Government vide reference 5th read above.

7. Sri K. Chinni Krishnaiah, Assistant Commercial Tax Officer (Retired) has appeared before the Principal Secretary (CT & Excise), Revenue Department through his Advocate and furnished his written arguments vide reference 6th read above and also argued the case. Among others, he has represented that continuation of his suspension was not in accordance with rules and instructions. The entire reading of the judgment along with the deposition of the witnesses would clearly disclose that he was honourably acquitted by the criminal court but not on technicalities nor witnesses turning hostile and requested to regularize the suspension period as on duty and to pay all consequential benefits.

8. Government have examined the representation of Sri K. Chinni Krishnaiah, Assistant Commercial Tax Officer (Retired) and observe that he was continued under suspension for the period from 01.02.2000 to 30.09.2003. As per the orders in vogue, the order of suspension shall be reviewed at the end of every six months and the reviewing authority should take a decision regarding continuance or otherwise of the employee concerned under suspension with reference to the nature of charges, where delay in finalization of enquiry proceedings cannot be attributed to the employee or when there is no interference from the employee in facilitating the enquiry. An outer limit of two years was also provided from the date of suspension failing which the public servant may have to be reinstated without prejudice to the proceedings being pursued. However, in exceptional cases, one could be continued under suspension even beyond a period of two years especially in cases where there is deliberate delay caused due to non-cooperation of the employee concerned. It is also observed that the Charge Sheet was filed in this case which was numbered as CC No.22/2000 on 01.11.2000 and the delay in finalization of proceedings can not be attributed to the suspended employee and there was no justification to continue him under suspension beyond the said outer limit of two years i.e., from 01.02.2002 onwards. Hence, it is decided to regularize the suspension period from 01.02.2000 to 31.01.2002 of the individual as **not on duty** as his suspension cannot be considered as 'wholly unjustified' since there was a prima facie grave case of demand and receipt of illegal gratification by him while the remaining period from 01.02.2002 to 30.09.2003 (i.e., beyond two years of his suspension period) be regularized as "**On duty**", since there was no justification in continuing him under suspension.

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9. Accordingly, Government hereby order to regularize the 1st part of the suspension period of Sri K. Chinni Krishnaiah, Assistant Commercial Tax Officer (Retired) from 1.2.2000 to 31.01.2002 as **not on duty** and the remaining part of the suspension period from 1.2.2002 to 30.09.2003 as **on duty**. He will be entitled only to subsistence allowance for the period from 01.02.2000 to 31.01.2002. However, in view of his acquittal, the above period together with the 'duty' period from 01.02.2002 to 30.09.2003, shall count for service benefits like notional increments, pay/pension fixation, leave and notional promotion, if any due, as per rules.

10. The Commissioner of Commercial Taxes, AP., Hyderabad shall take necessary action in the matter, accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**ASUTOSH MISHRA
PRINCIPAL SECRETARY TO GOVERNMENT**

To

Sri K. Chinni Krishnaiah, Assistant Commercial Tax Officer (Retired),
R/o.1/2001, Kathrika Street, Pamidi (V&M), Ananthapur District.

through Commissioner of Commercial Taxes, Hyderabad

The Commissioner of Commercial Taxes, Hyderabad.

Copy to

The Deputy Commissioner (Commercial Taxes), Kurnool Division, Kurnool.

The Government Pleader for Services-II, High Court of A.P, Hyderabad.

SF/SC

//Forwarded :: By Order //

SECTION OFFICER.